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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,054	12/30/2003	Raghu Narayan	30320/16219	8336
4743	7590	04/22/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			MOONEY, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2883	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,054

Applicant(s)

NARAYAN, RAGHU

Examiner

Michael P. Mooney

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 2,3,6-11 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/29/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1, 4-5, 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Althaus et al. (6092935).**

Althaus et al. a package adapted to house an optoelectronic device, the package comprising: a base 2 (fig. 1 below infra.) having an upper surface, wherein the optoelectronic device 5 is mounted to the upper surface (fig. 1); a can structure 3 comprising a lower cylindrical portion 8 coaxially connected to an upper cylindrical portion 7 by an annular wall (see fig. 1 below infra.), the lower cylindrical portion 8 being connected to the base 2; and the upper cylindrical portion 7 accommodating one of an optical waveguide stub 1 or a GRIN lens.

Art Unit: 2883

Although Althaus et al. does not explicitly state at col. 6 lines 5-8 that optical waveguide 1 is an optical fiber stub, it would have been obvious to do so because optical waveguide 1 of fig. 1 is inherently a stub and it is notoriously well known to use an optical fiber as the type of waveguide (versus, e.g., other type of waveguide(s), for example, a planar waveguide or a ridge type waveguide) in a situation that requires a ferrule-type device 3 to hold the waveguide 1 in very small spaces such as in figure 1 of Althaus et al.

Thus claim 1 is rejected.

Althaus et al. teaches the claim 4 elements at col. 8 lines 55-60 and col. 5 lines 60-65.

By the reasons and references given above, each and every element of claim 5 is rejected.

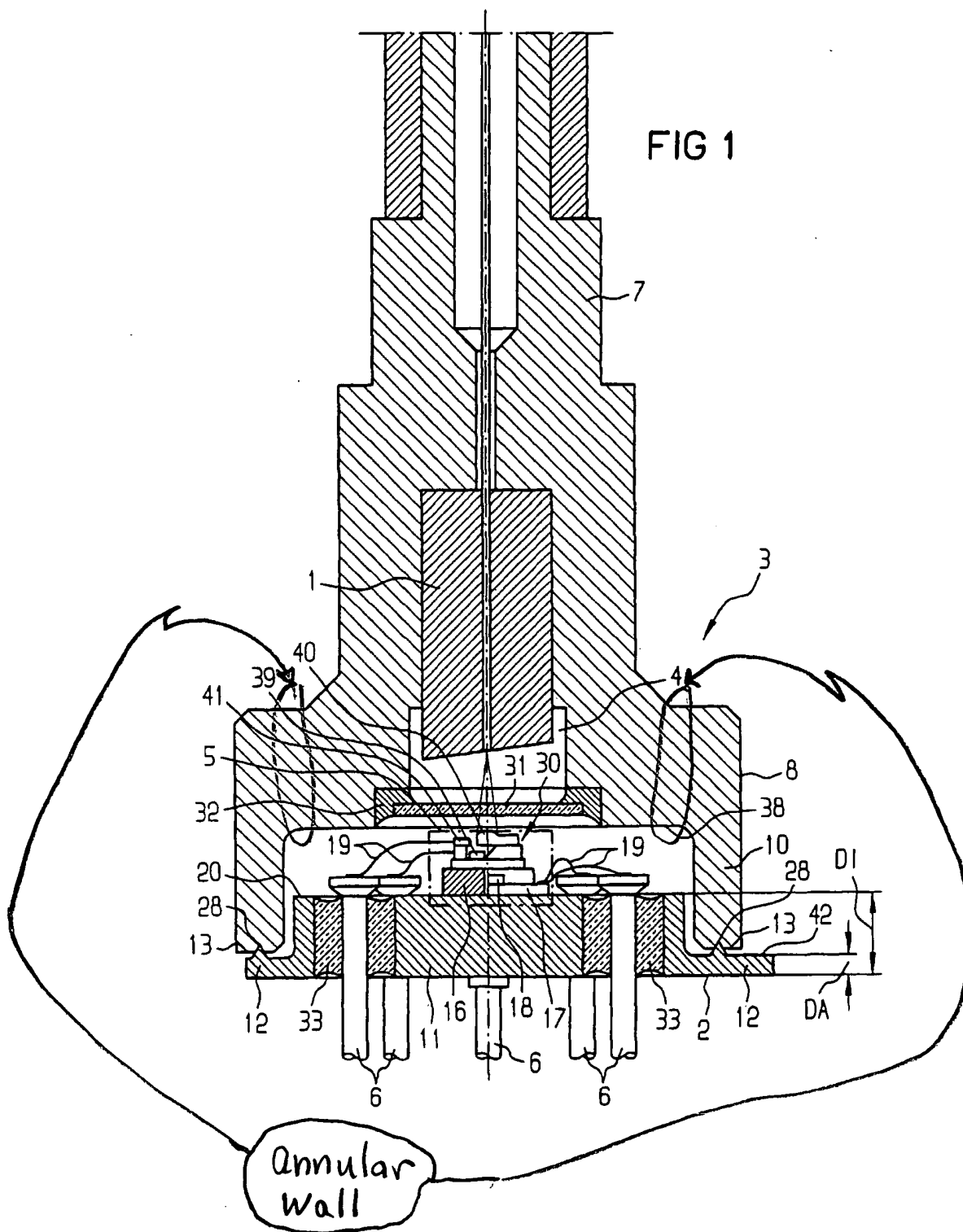
A photodiode is taught at col. 5 lines 25-30. Thus claim 12 is rejected.

Furthermore, each and every element of claims 13-14 are either directly taught in Althaus et al. or are rendered obvious by Althaus et al. via notoriously well known principles in the art and/or by the reasons/references given above.

Each and every element in claim 15 is either directly taught in Althaus et al. and/or is rendered obvious by Althaus et al. via notoriously well known principles in the art with the added statement that a phrase such as "filled with a conductive material", i.e., the method of forming a device, is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight beyond any structural component. Thus claim 15 is rejected.

Art Unit: 2883

Furthermore, each and every element method claim 16 is either directly taught in Althaus et al. or is rendered obvious by Althaus et al. via notoriously well known principles in the art and/or by the reasons/references given above. If Applicant disagrees with this obviousness holding, then Applicant should submit evidence showing this obviousness holding is errant. Examiner will then consider restricting.



***Allowable Subject Matter***

Claims 2-3, 6-11, 17-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art, either alone or in combination, does not disclose or render obvious the unique combination of each and every specific element stated in each of the claims 2-3, 6-11, 17-23.

***Conclusion***

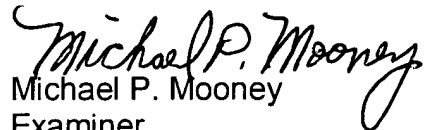
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

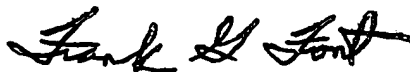
Art Unit: 2883

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-

1562.



Michael P. Mooney  
Examiner  
Art Unit 2883



Frank G. Font  
Supervisory Patent Examiner  
Art Unit 2883

FGF/mpm  
4/16/05